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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,893	04/14/2004	Michael Fleisher	SFV 309	7307
23581	7590	06/13/2006	EXAMINER	
KOLISCH HARTWELL, P.C. 200 PACIFIC BUILDING 520 SW YAMHILL STREET PORTLAND, OR 97204			BARKER, MATTHEW M	
			ART UNIT	PAPER NUMBER
			3662	

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/824,893	<b>Applicant(s)</b> FLEISHER ET AL.	
	<b>Examiner</b> Matthew M. Barker	<b>Art Unit</b> 3662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-45 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 18-23, 34-36, 42-45 is/are rejected.
- 7) ☒ Claim(s) 8-17, 24-33 and 37-41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 20 (page 5, line 20), 67 (page 9, line 1), 22' (page 8, line 6). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 13 is objected to because of the following informalities: Claim 13 recites the limitation "the second image" in line 4. There is insufficient antecedent basis for this limitation in the claim. For the purposes of examination, claim 13 is read as being dependent on claim 2. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 18-19, 34, 42-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Yukl (6,057,761).

Regarding claim 1, Yukl discloses a method of surveilling a subject comprising transmitting electromagnetic radiation in the range of about 100 MHz to about 3 THz toward the subject (column 3, lines 1-9); receiving radiation emitted from the subject in response to the transmitted radiation (Abstract); inherently producing an image signal representative of the received radiation, the image signal including image data corresponding to a first image of at least a portion of the subject (column 2, lines 27-30); determining whether the image data corresponding to the first image includes characteristics corresponding to an object on the person, and when characteristics corresponding to an object are found, determining the location of the object in the first image (column 9, lines 6-22).

Regarding claim 2, Yukl discloses producing image data corresponding to a second image of at least a portion of the first image including the location corresponding to image data including characteristics corresponding to an object (column 8, lines 13-20).

Regarding claim 3, Yukl discloses the claimed use of a first and second antenna apparatus (Figure 1, antennas 16 and 18).

Regarding claim 18, Yukl discloses the claimed imaging system. (See Figures 1, 7A, 7B, and text references in regard to claims 1 and 2.)

Regarding claim 19, Yukl discloses a method comprising interrogating a subject with electromagnetic radiation in the range of about 100 MHz to about 3 THz (column 3, lines 1-9); generating first image data representative of at least a portion of the subject (column 2, lines 27-30); identifying a first portion of the first image data having characteristics corresponding to characteristics of an object carried by a person (column 9, lines 6-22); and displaying a second image representative of the first portion of the first image data (column 8, lines 13-20).

Regarding claim 34, Yukl discloses an imaging system (Figure 1), including the claimed antenna assembly (16, 18), and claimed controller (22, see column 9, lines 6-22).

Regarding claim 42, Yukl discloses the claimed imaging system (Figure 1) including means (16, 18) for interrogating a subject (S), means (22) coupled to interrogating means for generating first image data representative of at least a portion of the subject, and means (22) for identifying at least a first portion of the first image data having characteristics corresponding to characteristics of an object carried by the subject.

Regarding claim 43, the claimed storage media and program of commands is inherent to the invention of Yukl, as it is required to carry out the method of claim 1.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-7, 20-23, 35-36, and 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yukl as applied to claims 1, 19, 34, and 43 above, and further in view of Keller et al. (2004/0140924).

Regarding claims 4, 20, and 44 Yukl does not explicitly disclose producing image data having picture elements with different levels of intensity, and determining whether the image data corresponding to the first image includes characteristics corresponding to an object includes determining a correlation of the levels of intensity of at least one group of picture elements with the levels of intensity of a corresponding reference group of picture elements.

Keller discloses a related method and computer program including the claimed image data having picture elements with different levels of intensity, and determining whether the image data has characteristics corresponding to an object through correlation of levels of intensity of groups of picture elements with the levels of intensity of an inherent corresponding reference group (paragraphs 0008-0009).

Regarding claims 5, 21 and 45, Keller discloses that determining a correlation of levels of intensity includes identifying at least a portion of the image data corresponding to which there is at least a threshold correlation of the levels of intensity of the picture elements with the levels of intensity in the reference group (paragraph 0068, lines 15-19).

Regarding claims 6-7 and 22-23, Keller discloses identifying a portion of the image data includes determining a correlation value of a given picture element as a function of the intensity level of one or more other picture elements arranged relative to the given picture element (paragraph 0068, lines 1-6).

It would have been obvious to modify Yukl to include the neural network determination method and computer program of Keller in order to provide more accurate and precise object identification by identifying specific objects.

Regarding claim 35, Yukl does not explicitly disclose that the controller is adapted to generate image data having picture elements with different levels of intensity, and to determine a correlation of the levels of intensity of at least one group of picture elements with the intensity of a corresponding reference group of picture elements.

Keller discloses a related system including the claimed image data having picture elements with different levels of intensity, and determining a correlation the levels of intensity of at least one group of picture elements with the levels of intensity of an inherent corresponding reference group (paragraphs 0008-0009).

Regarding claim 36, Yukl does not disclose the claimed threshold correlation.

Keller discloses a related system in which the controller (44) is adapted to identify a portion of the first image data corresponding to which there is at least a threshold correlation of the levels of intensity of the picture elements in at least one group of picture elements with the levels of intensity of the reference group of picture elements (paragraph 0068, lines 15-19).

It would have been obvious to modify Yukl to include the controller configuration as taught by Keller in order to provide more accurate and precise object identification by identifying specific objects.

#### ***Allowable Subject Matter***

6. Claims 8-17, 24-33 and 37-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited art relates to various imaging systems.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew M. Barker whose telephone number is (571)272-3103. The examiner can normally be reached on M-F, 8:30 AM-5:00 PM.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on (571)272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*MMB*

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